

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 112

January 26, 1954

DEATH BENEFITS: UNIVERSITY OF CALIFORNIA RETIRING ANNUITIES SYSTEM

Syllabus:

Death Benefits, in excess of the member's contributions, paid by the University of California's Retiring Annuities System are to be taxed as capital gains under the provisions of Section 17503, Personal Income Tax Law.

Taxpayer's husband was an employee of the University of California until his death. His widow received an amount from the Retiring Annuities System in excess of his contributions to the fund. Advice is requested whether the amount in excess of the decedent's contributions is to be taxed as ordinary income or capital gains under Section 17303, formerly Section 13163.

The Retiring Annuities System meets the requirements set forth in Sections 17501(a) -- (f), formerly Sections 18156 through 18162, and could have qualified as a tax exempt trust had there been an occasion to have done so. Therefore, so much of the lump sum payments received from the Retiring Annuities Plan as are in excess of his contributions should receive the capital gains treatment provided for by Section 17508. See I.T. 4102, 1952-2 C.B. 178.